

MAYOR'S STATEMENT REGARDING THE CAUSEWAY WALL

I am writing to you regarding some recent communications surrounding the Booth property and the wall thereon that has failed, structurally, causing a portion of Tuxedo Road to remain closed for the past 10 months.

In December, the Village proffered a settlement to Ms. Booth, regarding repair of the wall on her property. The terms of the settlement, in general, would have the Village (1) use as much of its Department of Public Works resources as possible to dismantle the wall – at no cost to Ms. Booth, (2) bear the cost of engineering plans for the wall's reconstruction, and (3) pay one-half of the actual out-of-pocket cost to rebuild the wall. The Village made this offer in order to avoid further litigation and end the significant inconvenience caused by the roadway's partial closure.

The Village's offer was put forth despite the lawful determination by the Board of Trustees, based upon the procedure provided in our Village Code and in conjunction with the advice of counsel, and after review of all pertinent documentation, that the subject wall lays exclusively on Ms. Booth's property, and the cause of the wall failure emanated from Ms. Booth's property. The wall serves no structural purpose for the adjacent Village roadway. It does not support the roadway in any respect, and it serves only to enhance the aesthetics and value of Ms. Booth's property. The historical aspect of the wall relates only to the original three-foot height of the wall. The only reasonable conclusion is that the wall's present height is the result of a prior owner of Ms. Booth's property, adding to the height of the wall in order to allow the property owners to have an undistracted view of Tuxedo Lake.

The wall is certainly majestic, and the BOT has never sought to have the wall dismantled without a plan to rebuild it, as soon as practicable.

Ms. Booth has made public her counter-offer, which requires that the Village take full ownership of the wall, with the Village taxpayers bearing the full cost of dismantling, rebuilding, and maintaining the wall in perpetuity, as well as continuing to pay for all of the associated engineering costs.

Ms. Booth cites "massive legal fees" she has spent on the lawsuit she brought against the Village, and a "donation of her property" in order to make her offer appear appealing. Ms. Booth chose early on in this matter to take a severe, unwavering stand that the wall is not her property and not her responsibility. It is clear that the some of her massive legal fees would have been better appropriated toward a fair compromise that would have resulted in a sharing of the cost of the wall's reconstruction.

The so-called "property donation" is necessary, if the masonry only wall is to be returned to its present height, as it has been determined that masonry only wall cannot structurally support the volume of earth presently contained by it; it can only support a wall that has a three-foot lower level of soil behind it. If the height of the wall is to remain as is, and the soil behind it brought back to its present height, the masonry wall will require a more expensive support system.

The lack of any financial contribution by Ms. Booth toward the wall's reconstruction foreclosed any possibility that a majority of the BOT would find the proposal acceptable. The Village must avoid the significant precedent that would be set as to similarly situated walls in the Village, by agreeing to annex the "gifted land" and wall from a private property owner and taking responsibility for its repair and future maintenance. Ms. Booth's proposal is simply not in the long-term best interests of the Village.

In terms of the Village's legal fees to defend itself against Ms. Booth's lawsuit, the Village Attorney has agreed to cap his fees for this matter at \$50,000. This agreement has enabled the BOT to base its decisions on the principles of this case and its implications for future cases, rather than be driven by a cost-benefit analysis that could possibly result in an undesirable, precedent setting outcome.

We continue to seek to achieve a fair and just settlement in this matter. Thank you for patience.